

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**MICHAEL D. BERTOLINO,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 3:04CV121  
(BROADWATER)**

**JO ANNE B. BARNHART,  
Commissioner, Social Security  
Administration,**

**Defendant.**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated January 20, 2006. Neither party filed objections to the Report. The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation (**Document No. 26**) should be and is hereby **ORDERED** adopted.

The Court, therefore, **ORDERS**

- 1) that the Claimant's motion for summary judgment (**Document No. 23**) is **DENIED**;
- 2) the Commissioner's motion for summary judgment (**Document No. 25**) is **GRANTED**;
- and
- 3) the Clerk is **DIRECTED** to strike this matter from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

**DATED** this 29<sup>th</sup> day of March 2006.

  
**W. CRAIG BROADWATER  
UNITED STATES DISTRICT JUDGE**

